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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Fifty-seventh session
Vienna, 9–20 April 2018

Draft report

I. Introduction

A. Opening of the session

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its fifty-seventh session at the United Nations Office at Vienna from 9 to 20 April 2018. At its 957th meeting, on 9 April, Andrzej Misztal (Poland) was elected Chair for the period 2018–2019, pursuant to General Assembly decision 72/518.

2. The Subcommittee held [...] meetings.

B. Adoption of the agenda

3. At its 957th meeting, on 9 April, the Subcommittee adopted the following agenda:

1. Adoption of the agenda.
2. Election of the Chair.
3. Statement by the Chair.
4. General exchange of views.
5. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
6. Status and application of the five United Nations treaties on outer space.
7. Matters relating to:
   (a) The definition and delimitation of outer space;
   (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.
8. National legislation relevant to the peaceful exploration and use of outer space.

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9. Capacity-building in space law.

10. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

11. General exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee.

12. General exchange of information on non-legally binding United Nations instruments on outer space.

13. General exchange of views on the legal aspects of space traffic management.

14. General exchange of views on the application of international law to small-satellite activities.

15. General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources.

16. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-eighth session.

C. Attendance

4. Representatives of the following [68] States members of the Committee attended the session: Algeria, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Costa Rica, Cuba, Czechia, Denmark, Ecuador, Egypt, El Salvador, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kazakhstan, Libya, Luxembourg, Malaysia, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Sudan, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

5. At its 957th meeting, on 9 April, the Subcommittee decided to invite, at their request, observers for Cyprus, the Dominican Republic, Finland, Malta, Myanmar, Paraguay and Singapore to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

6. At its 957th meeting, on 9 April, the Subcommittee also decided to invite, at its request, the observer for the European Union to attend the session, in accordance with General Assembly resolution 65/276, entitled "Participation of the European Union in the work of the United Nations", and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

7. Observers for the Office for Disarmament Affairs of the Secretariat and the International Telecommunication Union (ITU) attended the session.

8. The session was attended by observers for the following intergovernmental organizations having permanent observer status with the Committee: Asia-Pacific Space Cooperation Organization (APSCO), Centre for Remote Sensing of the North African States (CRTEAN), European Space Agency (ESA), European Telecommunications Satellite Organization (EUTELSAT-IGO), International Organization of Space Communications (Intersputnik) and International Telecommunications Satellite Organization.

9. The session was also attended by observers for the following non-governmental organizations having permanent observer status with the Committee: European Centre for Space Law (ECSL), European Space Policy Institute (ESPI), Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation, International Institute of Space Law (IISL), International Law Association (ILA), National Space Society (NSS), Secure World Foundation (SWF), Space Generation Advisory Council (SGAC) and World Space Week Association (WSWA).

10. A list of the representatives of States, United Nations entities and other international organizations attending the session is contained in document A/AC.105/C.2/2018/INF/[...].

D. Symposium

11. On 9 April, IISL and ECSL held a symposium on the theme "The fiftieth anniversary of the Rescue Agreement: relevance and challenges", co-chaired by Kai-Uwe Schrogl of IISL and Sergio Marchisio of ECSL. The symposium was opened with a statement of welcome by the Co-Chairs and by the Chair of the Subcommittee, and the Subcommittee subsequently heard the following presentations: "The drafting and history of the Rescue Agreement", by Elina Morozova; "'Return to sender': 50 years of the Rescue Agreement and the role of the United Nations", by Niklas Hedman; "The return of space objects: legal annotations and practical experience", by Alexander Soucek; "Perspectives on the concept of astronaut and private space flight", by Andrew Kuh; "Contemporary aspects of the Rescue Agreement turning 50", by Jose Monserrat Filho; and "The future of the Rescue Agreement and how to meet the challenges: the role of the Legal Subcommittee and UNISPACE+50", by Setsuko Aoki. Concluding remarks were made by the Co-Chairs of the symposium and the Chair of the Subcommittee. The presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (www.unoosa.org/oosa/en/ourwork/copuos/lsc/2018/symposium.html).

12. The Subcommittee noted with appreciation that the symposium had constituted a valuable contribution to its work.

E. Adoption of the report of the Legal Subcommittee

13. At its [...] meeting, on [...] April, the Subcommittee adopted the present report and concluded the work of its fifty-seventh session.

II. General exchange of views

14. Statements were made by representatives of the following States members of the Committee during the general exchange of views: Algeria, Argentina, Armenia, Australia, Austria, Brazil, Canada, Chile, China, Cuba, Czechia, Denmark, France, Germany, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Luxembourg, Mexico, New Zealand, Pakistan, Poland, Republic of Korea, Russian Federation, South Africa, Turkey, Ukraine and United States. Statements were made by the representative of Nigeria on behalf of the Group of 77 and China and the representative of the Plurinational State of Bolivia on behalf of the Group of Latin American and Caribbean States. The observer for the European Union made a statement on behalf of the European Union and its member States. The observer for Finland made a statement. The observers for APSCO, ESA, NSS, SGAC and SWF also made statements.

15. The Subcommittee heard a presentation entitled "The eighteenth Sustainable Development Goal: recognizing the imperative role of space in our future", by the representative of NSS.

16. The Subcommittee welcomed Bahrain, Denmark and Norway as the newest States members of the Committee on the Peaceful Uses of Outer Space, bringing the membership of the Committee to 87 States. The Subcommittee also welcomed the European Science Foundation (ESF), represented by the European Space Sciences Committee, and UNISEC-Global, as the newest permanent observers of the Committee.

17. The Subcommittee took note of the applications of Finland (contained in conference room paper A/AC.105/C.2/2018/CRP.5) and Mauritius (contained in conference room paper A/AC.105/C.2/2018/CRP.4) for membership in the Committee, and the applications for the status of permanent observer of the Committee, received from the European Union (contained in conference room paper A/AC.105/C.2/2018/CRP.6), as well as from the International Standards Organization (contained in conference room paper A/AC.105/C.2/2018/CRP.7)and from CANEUS International (contained in conference room paper A/AC.105/C.2/2018/CRP.19). The Subcommittee noted that the applications would be considered by the Committee at its sixty-first session, in June 2018.

18. At the 957th meeting, on 9 April, the Chair made a statement in which he highlighted the programme of work and organizational matters pertaining to the current session of the Subcommittee.

19. At the same meeting, the Subcommittee heard a statement prepared by the Director of the Office for Outer Space Affairs, in which she reaffirmed the Office's commitment to discharging the Secretary-General's responsibilities under international space law, in particular in connection with transparency and confidence-building to ensure the safety, security and sustainability of outer space activities. She presented an overview of recent activities of the Office, highlighting efforts undertaken to prepare for UNISPACE+50, in 2018. She also drew the attention of the Subcommittee to the unfavourable financial situation of the Office, the reduction in the level of the Office's human resources and the ongoing efforts of the Office to improve its resource framework.

20. The Subcommittee took note with appreciation of the information on the activities of the Office aimed at promoting understanding, acceptance and implementation of international space law. In addition, the Subcommittee expressed its appreciation for the excellent work, including the preparation of documentation, done by the Secretariat for the current session of the Subcommittee.

21. The Subcommittee noted with appreciation the events held on the margins of the current session, namely a lunch-time event entitled "The Hague International Space Resources Governance Working Group: discussion on the 19 draft building blocks", organized by the National Point of Contact for Space Law Austria of ECSL, and an evening event [...], organized by ESPI.

22. The Subcommittee noted the instrumental role it had played in the development of the legal regime governing the use of outer space activities for peaceful purposes and in efforts to provide a unique multilateral platform at the global level for enhancing international cooperation for the benefit of all countries, in particular in the area of using space applications for sustainable development, including within the context of the 2030 Agenda for Sustainable Development.

23. The Subcommittee welcomed the adoption by the General Assembly, in its resolution 72/78, of the Declaration on the fiftieth anniversary of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

24. The Subcommittee agreed that UNISPACE+50 offered a unique opportunity for countries to reflect on the achievements of more than 50 years of space exploration and look towards the future, strengthening the mandates of the Committee, its subsidiary bodies and the Office, as unique platforms for international space cooperation, in order to align their work with the current challenges and opportunities in the space arena, making them fit for purpose and responsive to new realities in

space endeavours, such as an ever-growing number of actors and the diversification of both space actors and space activities.

25. Some delegations expressed the view that one of the important objectives of UNISPACE+50 would be the creation of momentum for reaching consensus on a "Space2030" agenda for the contribution of space activities to the achievement of the Sustainable Development Goals. Such space activities utilized space science and technology and their applications, which were crucial to achieving global initiatives including the 2030 Agenda for Sustainable Development; the Addis Ababa Action Agenda, which established a strong foundation to support the implementation of the 2030 Agenda for Sustainable Development; the Sendai Framework for Disaster Risk Reduction 2015–2030; and the Paris Agreement. In that connection, the delegations expressing that view were also of the view that achieving such a noble goal required the strengthening of global partnerships, including by enhancing the role and the capacity of the regional centres for space science and technology education, affiliated to the United Nations, and of the United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER).

26. The Subcommittee agreed that the existing international legal regime governing outer space provided a sound basis for undertaking space activities and that States should be encouraged to adhere to the existing legal regime in order to strengthen its effect.

27. Some delegations expressed the view that the existing international legal framework governing outer space activities enabled States to benefit from activities conducted in outer space, and that it was essential to continue to seek universal adherence to and application of the United Nations treaties on outer space.

28. The view was expressed that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, was the foundation of all other United Nations treaties and principles on outer space; it enjoyed the participation of a wide range of States and it contained comprehensive norms dealing with almost all aspects of space activities conducted by States and their national entities.

29. The view was expressed that the principles, declarations and guidelines for the peaceful use of outer space in the form of General Assembly resolutions that had been developed in the Committee had been playing an important role that complemented the existing United Nations treaties on outer space.

30. The view was expressed that national regulation of the exploration and use of outer space should not be conducted against the obligations of States under the United Nations treaties on outer space.

31. Some delegations expressed the view that in order to preserve outer space for generations to come and to enable them to have access to the benefits derived from the use of space technologies, it would be necessary for the Subcommittee to identify legal aspects that would lead to ensuring the sustainability of outer space activities, so that scientific and technological advances could become strengths that were accompanied by a legal framework.

32. Some delegations expressed the view that the United Nations treaties and principles on outer space provided the basis for regulating outer space activities, and recognized the need for work to be undertaken to warrant a safe and sustainable environment for outer space activities. In that regard, the delegations expressing that view were also of the view that the Committee and its two subcommittees continued to be the appropriate forums for discussing matters related to the peaceful uses of outer space, including the Moon and other celestial bodies, and that interaction, coordination and synergies between the Scientific and Technical Subcommittee and the Legal Subcommittee should be strengthened in order to align the development of space law with major scientific and technical advances in the space area and to promote understanding, acceptance and a real implementation of the existing United Nations legal instruments.

33. Some delegations expressed the view that the emergence of new space actors, the increase in privatization and commercialization of activities in outer space, the issue of cybersecurity and constant scientific and technological advances were creating conditions that had not been foreseen when the space treaties were negotiated. In that connection, the delegations expressing that view were also of the view that the Subcommittee should, jointly with the Scientific and Technical Subcommittee, address topical issues on the current space agenda, while ensuring that international space law kept up to date in order to achieve a balance between scientific progress and the benefits and interests of all countries, regardless of their level of development.

34. The view was expressed that, in view of the growing number of space objects and the diversification of space actors, space traffic management had become an issue of crucial importance for all nations and that, as a result of the increase in demand for space activities, the space environment had continued to become increasingly complex and congested. In that connection, the delegation expressing that view was also of the view that, in the interests of enduring sustainable and interference-free space operations, it would be necessary to identify viable solutions involving multilateral approaches (e.g., setting up an international legal framework for space traffic management) and the United Nations-based information-sharing mechanism, comprising a database on objects and events in space and relevant procedures for the operation of the mechanism.

35. The view was expressed that unauthorized launches and operations in space posed a fundamental threat to the existing space governance system and that States and the international community as a whole should therefore work to ensure that space activities would be conducted in accordance with international law.

36. Some delegations expressed the view that transparency and confidence-building measures continued to provide an important contribution to the security, safety and sustainability of activities in outer space, and that it would be important to promote principles of responsible behaviour in outer space in the framework of the United Nations and other appropriate multilateral forums. In that regard, the delegations expressing that view were also of the view that there would be value in negotiating, potentially within the framework of the United Nations, a non-legally binding instrument as a way of meeting those objectives.

37. Some delegations reaffirmed the commitment of their countries to the peaceful use and exploration of outer space and emphasized the following principles: universal and equal access to outer space for all countries without discrimination, regardless of their level of scientific, technical and economic development, and the equitable and rational use of outer space for the benefit of all humankind; the non-appropriation of outer space, including the Moon and other celestial bodies, by claim of sovereignty, use, occupation or any other means; responsibility of States for their national space activities carried out by both governmental and non-governmental entities; the non-militarization of outer space; the prevention of the installation of weapons of any kind in outer space; the strict use of outer space, as the common heritage of humankind, for peaceful purposes and for the improvement of living conditions and peace among the peoples that inhabit our planet; and international cooperation in the development of space activities, in particular those referred to in the Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries.

38. Some delegations expressed the view that measures that would limit access to space for nations with emerging space capabilities should be avoided and that States should refrain from further developing the international legal framework in a manner that set overly high standards or thresholds that could hinder the enhancement of capacity-building for developing countries.

39. Some delegations reaffirmed the importance of preventing both an arms race in outer space and the placement of weapons of any kind in outer space, through the utilization of appropriate and effective verification mechanisms, and called upon all

States, in particular those with major space capabilities, to contribute actively to the peaceful use of outer space in order to prevent an arms race in space, and to refrain from placing weapons of any kind in outer space and from any other actions contrary to that objective.

40. Some delegations expressed the view that, over the years, the Committee and its subcommittees had excelled at delivering practical and useful guidance to the international community on the application of the legal principles enshrined in the core treaties on outer space. That guidance had taken the form of resolutions, frameworks, guidelines and a wealth of informative materials made available in print or online.

41. Some delegations expressed the view that the Subcommittee had a historic mission that needed to be underscored and valued, and that the Subcommittee should be granted new impetus, enriched with further debates, in order to be able to adequately fulfil its mandate as the negotiating body for international space law.

42. The view was expressed that the Legal Subcommittee was a unique international forum for the exchange of views and development of legal and policy foundations for activities of States in outer space. In that connection, the delegation expressing that view was also of the view that, in order to maximize its potential, the Subcommittee should intensify its consideration of topical problems of the legal regulation of modern space activities, and that it was an unacceptable and counterproductive practice for matters of exclusive competence of the Subcommittee, and which required the due consideration of the views of all States, to be considered within side forums with a limited set of participants.

43. The view was expressed that there should be greater coordination between the Committee and its subcommittees and the Conference on Disarmament, in particular with regard to the work of the Conference on the draft treaty on the prevention of the placement of weapons in outer space and of the threat or use of force against outer space objects. The delegation expressing that view was also of the view that that issue was inextricably linked with the long-term security and sustainability of outer space activities and therefore merited careful mutual consideration, and that the work of the Conference could be guided by the useful work done and knowledge accumulated by the Committee over previous years.

44. The view was expressed that an attempt to substitute the universal principle of freedom of access to outer space with a questionable principle of freedom of space activities was a matter of concern and that the regulation of space activities, similar to other human activities, should be based on the principle of supremacy of law and should take into account the interests of all States, while promoting international peace and security, the development of international cooperation and advancement in the level of trust among all participants in space activities.